

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JACOB ROSA,

Plaintiff,

VS.

Case No.4:21-cv-00187-SEP

MITEK INC.,

Defendant.

DEFENDANT MITEK INC.'S MOTION
FOR JUDGMENT ON THE PLEADINGS OR,
IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT

Defendant MiTek Inc. (“MiTek”), pursuant to Federal Rule of Civil Procedure 12(c), or in the alternative Federal Rule of Civil Procedure 56, by and through its undersigned counsel, moves for judgment on the pleadings or, in the alternative, summary judgment on Count I of Plaintiff Jacob Rosa’s (“Plaintiff”) Complaint. Count I of Plaintiff’s Complaint alleges MiTek violated the Emergency Paid Sick Leave Act (“EPSLA” or “Act”) when it failed to provide Plaintiff with paid sick leave and subsequently terminated him after Plaintiff reported and requested time off due to his suspected COVID-19 exposure.

Count I fails because MiTek is not a covered employer under the Act. The EPSLA, by statutory definition, only applies to employers employing less than five hundred employees within the United States of America. Despite Plaintiff's allegation that MiTek employs less than five hundred employees, MiTek employs more than two thousand employees throughout the United States of America. Accordingly, the undisputed facts demonstrate that as a matter of law, MiTek is not subject to the Act's paid sick leave requirements, and therefore is entitled to judgment as a matter of law.

MiTek files contemporaneously herewith, and incorporates by reference herein, its Memorandum in Support of its Motion for Judgment on the Pleadings or, in the Alternative, Motion for Summary Judgment explaining in detail why it is entitled to judgment on Count I of Plaintiff's Complaint.

WHEREFORE, Defendant MiTek Inc., respectfully requests this Court grant it a judgment on the pleadings or, in the alternative, summary judgment on Count I of Plaintiff's Complaint, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Joseph M. Wientge, Jr.

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Attorneys for Defendant MiTek, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will effectuate service on the following:

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Attorney for Plaintiff

/s/ Joseph M. Wientge, Jr.